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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,395

09/23/2003

Adam J. Kirkley

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PAUL W. MARTIN
NCR CORPORATION, LAW DEPT.
1700 S. PATTERSON BLVD.
DAYTON, OH 45479-0001

EXAMINER

AN, IG TAI

ART UNIT

PAPER NUMBER

3687

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,395	Applicant(s) KIRKLEY, ADAM J.	
	Examiner IG TAI AN	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/08/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a First Office Action Non- Final Rejection on the merits.

Claims 1 - 13 are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 - 2, and 4 - 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Swartz (US 5877485).

As per Claim 1, Swartz discloses a security method for a self-service checkout system (Abstract) comprising the steps of:

a) obtaining identification information of a customer involved in a transaction (Column 4 line 27 – 42 teaches the system receive customer information in a transaction from a customer loyalty card);

b) determining a risk level associated with the identification information of the customer (Abstract teaches the risk level/ number of items to check based on the identification information of the customer such as shopping frequency, queue length, prior history, and etc.);

c) determining a security level associated with the risk level (Abstract and Column 6 lines 45 – column 7 line 34 teaches how many items to be check is determined based on security criteria and customer identification information such as shopping frequency, prior history and etc.); and

d) configuring the self-service checkout system for the security level (Abstract teaches the self checkout system that determines how many items to check by cashier or security guard based on the security level).

As per Claim 2, Swartz discloses obtaining the identification information from a loyalty card carried by the customer (Column 4 line 27 – 42).

As per Claim 4, Swartz discloses

b-1) storing shopping history data of the customer (Abstract); and

b-2) assigning a risk level based upon the shopping history data of the customer (Abstract).

As per Claim 5, Swartz discloses

b-1) storing shopping history data of the customer (Column 7 lines 3 – 8);

b-2) obtaining current transaction data of the customer (Column 6 lines 45 – 54);

and

b-2) assigning a risk level based upon the shopping history data of the customer and the current transaction data of the customer (Column 7 line 35 – 55).

As per Claim 6, Swartz discloses

- b-i) defining categories of shoppers of different risk levels (Abstract);
- b-2) storing shopping history data of the customer (Abstract);
- b-3) determining a category of the customer by comparing the shopping history data of the customer to the categories of shoppers (Column 7 line 35 – 55); and
- b-4) determining that the risk level is associated with the category of the customer (Column 7 line 35 – column 8 line 15).

As per Claim 7, Swartz discloses

- c-1) looking up the risk level of the customer in an established list of risk levels (Column 7 line 35 – column 8 line 15); and
- c-2) determining that the security level of the customer is associated with the risk level of the customer in the list (Column 8 line 16 – 49).

As per Claim 8, Swartz discloses relaxing security for lower security levels (Abstract and column 7 line 35 – column 8 line 24. Fewer items will be checked for a customer who is high security level and low risk level).

As per Claim 9, Swartz discloses tightening security for higher security levels (Abstract and column 7 line 35 – column 8 line 24. More items will be checked for a customer with higher risk level and lower security level).

As per Claim 10, Swartz discloses

e) implementing configured security procedures for the security level until the customer leaves the self-service checkout system (Column 8 line 16 – 49); and

f) storing data from the transaction in shopper history data of the customer (Column 8 line 36 – 49).

Claims 11 – 13 have similar limitations as Claims 1 – 2 and 4 - 10.

Therefore, Claims 11 – 13 are rejected under same rationale.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Zhang et al. (hereinafter Zhang) (US 20030177066).

As per Claim 3, Swartz discloses all the elements of the claimed invention, but is silent regarding obtaining biometric data from the customer; and determining that the identification information of the customer is associated with the biometric data of the customer.

Zhang discloses an integrated marketing promotion system and method having obtaining biometric data from the customer (Paragraph 127); and determining that the identification information of the customer is associated with the biometric data of the customer (Paragraph 127).

Therefore, from this teaching of Zhang, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify self-scanning checkout system of Swartz to include biometric data of customer as a identification information as taught by Zhang to easily identify and verify the customer.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Walter et al. (US 5747784) discloses method and apparatus for enhancing security in a self service checkout station.

Ono et al. (US 5013896) discloses cashier-less checkout system using customer pass-card.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IG TAI AN whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3625

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